

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 9:020

Department for Medicaid Services
Not Amended After Comments

(1) A public hearing regarding 907 KAR 9:020 was not requested and; therefore, not held.

(2) The following individuals submitted written comments regarding 907 KAR 9:020:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Sharon D Perkins, Director of Health Policy	Kentucky Hospital Association
Kristi Hall, President	KY Academy of Physician Assistants

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 9:020:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Stuart Owen, Regulation Coordinator	Department for Medicaid Services

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Intensive Outpatient Program Rate

(a) Comment: Sharon D Perkins, Director of Health Policy, Kentucky Hospital Association, stated the following:

"The Non-Medicare services fee schedule, dated January 2015, states the per diem rate for Alcohol and/or drug services, intensive outpatient program per diem is \$58.25. This issue has been discussed in many public forums as an incorrect rate. Per the Cabinet, the correct per diem rate is \$125."

Ms. Perkins also stated the following:

"In Section 3 (7) Reimbursement for the following services shall be as established on the PRTF Non-Medicare Services fee Schedule: (e) {line 4} Intensive Outpatient Services. KHA is requesting clarifying language to incorporate alcohol and/or drug use services and display the correct per diem rate."

(b) Response: The Department for Medicaid Services' (DMS's) reimbursement for

intensive outpatient program services is established in administrative regulations (and material incorporated by reference into administrative regulations) and is currently a per diem of \$58.26 rather than of \$125. The corresponding state plan amendment approved by the Centers for Medicare and Medicaid Services (CMS) also establishes that the IOP rate is \$58.26 per day – as displayed on page 20.15(1)(g) of the document linked below: <http://www.chfs.ky.gov/NR/rdonlyres/F566D2E6-2A04-4604-84D1-DAD133640845/0/KY14006ApprovalLetter179andPlanPages.pdf>

Indeed, the scope of intensive outpatient program services includes alcohol/drug use treatment. There is a companion administrative regulation – 907 KAR 9:015, Coverage provisions and requirements regarding outpatient services provided by Level I or Level II psychiatric residential treatment facilities – to 907 KAR 9:020. The companion administrative regulation addresses service requirements and components. Section 4(1) of 907 KAR 9:015 establishes that the services covered may be provided for a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorder unless specified otherwise. Below is the relevant excerpt:

“Section 4. Covered Services. (1) Except as specified in the requirements stated for a given service, the services covered may be provided for a:

- (a) Mental health disorder;
- (b) Substance use disorder; or
- (c) Co-occurring mental health and substance use disorders.”

Section 4(3)(h)1 of 907 KAR 9:015 states the following:

“(h)1. Intensive outpatient program services shall:

a. Be an alternative to or transition from inpatient hospitalization or partial hospitalization for a mental health disorder, substance use disorder, or co-occurring disorders;”.

(2) Subject: Reimbursement for Physician Assistants

(a) Comment: Kristi Hall, President, Kentucky Academy of Physician Assistants, stated the following:

“Another example of PAs being treated unequally as behavior health providers is apparent in the agency’s reimbursement methods. 907 KAR 9:020 indicates that PAs are reimbursed at 52.5 percent of the rate of the Kentucky-specific Medicare Physician Fee Schedule for a screening or crisis intervention, an assessment, or for family/individual/group/collateral outpatient therapy. For all of these services, physicians (reimbursed at 75 percent), and APRNs (reimbursed at 63.75 percent) are reimbursed at significantly higher rates for the same services.

KAPA is concerned that not only are such classifications, omissions, and rate differentials restrictive on PAs, but also harmful to the patients PAs serve in this capacity. Patients who require behavioral health services are faced with increasingly serious access challenges, especially in more rural and underserved communities. As

the need for behavioral healthcare grows, and physician shortages (including psychiatrists) worsen, obtaining appropriate access to care is likely to become even more difficult for this patient population. Proven providers such as PAs who are frequently found in rural communities, will be depended on to meet demand. To do so they will need to be allowed to provide services to the full extent within their scope of practice and without limitations that result from being classified in a secondary class or other hindering restrictions.”

(b) Response: DMS appreciates the input. The current reimbursement structure is as was approved by the Centers for Medicare and Medicaid Services (CMS). If DMS decides to amend the reimbursement it would have to procure federal approval through a “state plan amendment” process that takes time. If DMS chooses to amend reimbursement in the future it will consider this recommendation at that time.

SUMMARY OF STATEMENT OF CONSIDERATION
AND
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 9:020 and is not amending the administrative regulation.